

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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138-77 QUEENS BLVD LLC,

Plaintiff,

- against -

SCOTT E. SILVER,

Defendant.
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Case No. 22-CV-5155-KAM-MMH

**STIPULATION AND
[PROPOSED] ORDER
REGARDING FINANCIAL
DISCOVERY**

WHEREAS, Plaintiff seeks to take discovery concerning Defendant's finances in connection with Plaintiff's claim for punitive damages;

WHEREAS, Defendant contests the validity of such claim and has cited authority supporting the deferral of financial discovery until after the close of fact discovery and resolution of any motions for summary judgment, including *Babbitt v. Koepfel Nissan, Inc.*, 2019 U.S. Dist. LEXIS 122649, at *12 (E.D.N.Y. July 23, 2019), and *McNamee v. Clemens*, 2013 U.S. Dist. LEXIS 179736, at *29 (E.D.N.Y. Sept. 17, 2013);

NOW THEREFORE, subject to the approval of the Court, the parties stipulate and agree as follows:

1. Plaintiff shall forbear from serving written discovery requests or inquiring concerning Defendant's personal finances at deposition prior to the fact discovery cutoff in this action.

2. Following the disposition of any summary judgment motions, the parties shall meet-and-confer and endeavor to reach agreement regarding financial discovery from Defendant, which may include a continuation of Defendant's deposition, interrogatories, and/or requests for

the production of documents. If the parties are unable to reach agreement, Plaintiff may seek an Order of the Court directing such discovery.

3. Plaintiff's forbearance from seeking discovery prior to the fact discovery cutoff in this action shall not limit or impair its right to financial discovery from Defendant at the later time as provided in paragraph 2 above.

Dated: New York, New York
August 22, 2023

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SO ORDERED:

Dated: Brooklyn, New York
_____, 2023

MARCIA M. HENRY
United States Magistrate Judge